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Via Electronic Filing

Judge Charles R. Breyer
United States District Judge
Northern District of California
San Francisco Courthouse, Courtroom 6 - 17th Floor
450 Golden Gate Avenue, San Francisco, CA 94102

Re: ***In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation***
MDL No. 2672 CRB (JSC)
Application of Martis Ann Alex to Serve on Plaintiffs' Steering Committee

Dear Judge Breyer:

I write to apply for a position on the Plaintiffs' Steering Committee pursuant to Pretrial Order No. 2. As described below, I believe that the results I have achieved for consumers and investors during my thirty-year litigation career demonstrate that I have the experience, leadership ability, settlement skills, creativity, and collegiality necessary to efficiently resolve this complex litigation and to achieve just compensation for affected consumers.

Demonstrated Record of Professional Successes

I have been a Litigation Partner at the New York office of Labaton Sucharow, LLP (the "Firm") for over twenty years, and have devoted my practice at the Firm to litigating complex class actions and mass torts. Over that twenty-year span, I, together with my Firm, have recovered billions of dollars for consumers and investors injured by corporate fraud and misrepresentations. I have served as Court-appointed Lead Counsel, Lead Trial Counsel, and Steering Committee Member in several significant cases, including the following matters:

- In *Napp Technologies Explosion Litigation*, (L-4233-95) (Supr. Ct. N.J.), I served as Lead Trial Counsel and Co-Chair of the Plaintiffs' Steering Committee, and achieved substantial recoveries for families and firefighters injured by a chemical plant explosion in Lodi, New Jersey.¹
- In *Zenith Laboratories Securities Litigation* (86-3241A-DRD) (D.N.J.), I served as Lead Trial Counsel and Chair of the Plaintiffs' Steering Committee and achieved a significant recovery for a nationwide class of defrauded investors in a federal securities fraud case.²
- In *In re Orthopedic Bone Screw Prods. Liab. Litigation*, (MDL 1014) (E.D. Pa.), I served as a Member of the Plaintiffs' Steering Committee in an MDL that recovered \$100 million for consumers injured by defective orthopedic bone screws.³

¹ The Special Master was Edward P. D'Alessio, Hudson Cook, LLP, 1020 19th Street NW, 7th Floor, Washington DC 20036, (202) 223-6930. Judge Charles J. Walsh is deceased.

² Lead Defense Counsel was Peter Pizzi, Connell Foley, 888 Seventh Avenue, 9th Floor, New York, New York 10106, (212) 307-3700. Judge Dickinson R. Debevoise is deceased.

³ Judge Louis C. Bechtle (Ret.), Conrad O'Brien PC, 1500 Market Street, Centre Square, West Tower, Suite 3900, Philadelphia, PA 19102, (215) 864-8060.

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- In *In re Teletronics Pacing Systems, Inc. Accufix Atrial "J" Leads Prod. Liab. Litigation*, (MDL 1057) (S.D. Ohio), I served as a Member of the Plaintiffs' Steering Committee in an MDL where we achieved over \$60 million in recoveries for consumers who suffered injuries from defective pacemakers.⁴
- In *In re Latex Gloves Prods. Liab. Litigation*, (MDL 1148) (E.D. Pa.), I served as a Member of the Plaintiffs' Steering Committee representing consumers injured by defective latex products in an MDL.⁵

In addition to my experience litigating mass torts, I bring leadership experience and litigation and settlement expertise from my years litigating federal securities fraud class actions, as well as my recent successful representation in 20 individual cases of several foreign banks seeking recovery of hundreds of millions of dollars lost when they purchased residential mortgage-backed securities ("RMBS Litigation").⁶ I played instrumental roles in the litigation of *In re American International Group, Inc. Securities Litigation* ("AIG Litigation"), Case No. 04-cv-8141 (S.D.N.Y.), where the Firm, acting as sole Lead Counsel, recovered over \$1 billion for defrauded investors in one of the most complex federal securities fraud cases in history.⁷ I also played a substantial role, including as a member of the trial team, in *In re Bristol-Myers Squibb Securities Litigation*, Case No. 00-cv-1990 (D.N.J.), where the Firm, acting as sole Lead Counsel, recovered \$185 million for defrauded investors.⁸

I believe my long history of litigation and settlement experience in complex cases involving financial fraud are directly relevant to this case where Volkswagen deceived approximately 500,000 consumers in the United States alone. Plaintiffs and class members in the financial fraud cases, like the consumers who purchased the affected vehicles here, were injured when they purchased products in reliance on misrepresentations about the core characteristics of the products they purchased. In the financial fraud cases, I dealt with several issues that may be at issue here, such as complicated bankruptcy proceedings, foreign defendants, foreign language document productions, discovery in foreign countries, government investigations, and environmental concerns. Also, each of those cases required keen negotiation skills to resolve multifaceted claims and to fairly allocate settlement proceeds amongst diverse claimants.

I am Chair of the Firm's Consumer Protection Litigation Practice Group, and I have recently been involved in litigating auto defect class actions, including performing common benefit work on behalf of class members in the economic injury track in the *Takata Airbag Prods. Liab. Litigation* (MDL 2599) (S.D. Fla.), and litigating nine class actions against many of the largest automobile manufacturers in the world concerning their defective keyless ignition systems, see, e.g., *Patricia Lassen, et al. v. Nissan North America, Inc.*, Case No. 2:15-cv-6491 (C.D. Cal.).

Importance of Cooperation and Teamwork

During my thirty-year litigation career, I have worked cooperatively with other attorneys and law firms to achieve the best possible outcomes for consumers and investors. I believe I am well-liked and well-respected by the Bench and the Bar, and have a reputation for collegiality, teamwork, and fair play. This is reflected in the attached list of 52 firms who support my application to the Plaintiffs' Steering Committee. See Exhibit B.

Many well-qualified attorneys will apply to be Lead Counsel or to serve on the Plaintiffs' Steering Committee in this case, and we support several of those applicants, each of whom we believe is well-qualified to lead this litigation. There are three applicants in particular whom we urge the Court to consider for leadership. Elizabeth

⁴ The Special Master was Virginia Conlan Whitman, Legal Aid Society of Greater Cincinnati, 215 E. Ninth Street, Suite 200, Cincinnati, OH 45202, (513) 362-2839. Judge S. Arthur Spiegel is deceased.

⁵ Judge Edmund V. Ludwig, 5118 U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106, (215) 580-2030.

⁶ See, e.g., *Bayerische Landesbank, et al. v. Barclays Bank PLC, et al.*, No. 652697/2012 (Sup. Ct. New York Cnty.) (Friedman, J.); *Bank Hapoalim B.M. v. Bank of America Corp., et al.*, 12 Civ. 4316 (MRP) (C.D.Cal.); *HSH Nordbank AG, et al. v. UBS AG, et al.*, No. 654574/2012 (Sup. Ct. New York Cnty.). Justice Marcy S. Friedman, Supreme Court of New York County, 60 Centre Street, New York, New York 10007, (646) 386-3760.

⁷ Judge Deborah A. Batts, United States Courthouse, 500 Pearl Street, New York, NY 10007, (212) 805-0186.

⁸ Judge Stanley R. Chesler, United States Courthouse, 50 Walnut Street, Newark, New Jersey 07101, (973) 645-3136.

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Cabraser of Lieff Cabraser Heimann & Bernstein, LLP, David Boies of Boies, Schiller, & Flexner LLP, and Paul Geller of Robbins Geller Rudman & Dowd LLP are each individually, and certainly collectively, well qualified to lead a case of this size and importance. Their reputations, track records, and proven abilities to work collaboratively and cooperatively with others demonstrate that they have the legal skill and resources, and inter-personal and management skills required to efficiently and effectively oversee the litigation and resolution of this matter. We would be pleased to work with these distinguished lawyers, each of whom supports my application for the Plaintiffs' Steering Committee, or with any other lawyers the Court designates.

Commitment of Significant Resources for this Litigation

The Firm is well established in the class action world and possesses significant resources that will be fully committed to litigating this complex nationwide action. We employ 58 full-time attorneys, 51 short-term attorneys, 29 in-house private investigators, in-house financial analysts, e-discovery specialists, paralegals, and a robust support staff. We have recovered over \$7.5 billion for defrauded class members in just the past six years alone, and have the financial wherewithal to litigate this case to its conclusion. We understand the commitment necessary, both as to time and expense, to litigate a case of this magnitude to conclusion, and are fully prepared to make that commitment. For example, in the *AIG Litigation*, the Firm took over 100 depositions and defeated 22 motions to dismiss on our path to recover over \$1 billion for defrauded investors. Although our goal is to resolve this case expeditiously, litigation is unpredictable, and we are prepared to commit the time and expense required to ensure that consumers are fairly compensated.

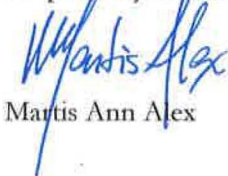
Additionally, the Firm's International Group has assisted in forming two Dutch foundations (called "Stichtings") to litigate or resolve all of Volkswagen's European consumer and investor claims. This international effort includes our working together with law firms in several European countries, including Germany, Austria, Italy, Spain, England, and the Netherlands. These efforts, combined with efforts before this Court, could be extremely helpful in litigating, negotiating, and resolving all claims against Volkswagen. In short, we are very committed to this litigation and its resolution.

Plaintiffs' Steering Committee Role

Many consumers have reached out to me and my Firm voicing their anger at Volkswagen's deceptive conduct, and have expressed their concern about losing thousands of dollars in re-sale value and unknowingly polluting the environment. These consumers, despite their best efforts to educate themselves about their vehicle purchases or leases, have been injured by Volkswagen's intentional misrepresentations. I filed two complaints on behalf of vehicle owners and lessees against Volkswagen,⁹ and I am committed to seeking a fair remedy for them. I would like to continue representing vehicle owners and lessees as a Steering Committee Member, but am, however, also prepared to zealously advocate on behalf of any group the Court deems appropriate.

Despite Volkswagen's public admissions of wrongdoing, this case will require dedicated and skilled attorneys who can effectively and efficiently reach favorable resolutions for consumers. Respectfully, I believe my inclusion on the Plaintiffs' Steering Committee would further the goals of this litigation. My condensed resume is attached,¹⁰ as is that of my Firm, and I am prepared to answer any questions the Court may have.

Respectfully submitted,



Martis Ann Alex

⁹ See *Jelkmann v. Volkswagen Group of America*, No. 15-cv-7566 (C.D. Cal.); *McNeil v. Volkswagen Group of America*, No. 15-cv-1317 (E.D. Va.).

¹⁰ Complete resumes are available at: <http://www.labaton.com/>.